

Adding Insult to Injury: The Criminalization of Homelessness and Its Effects on Youth

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"They'd wake us up really early, have everyone sit on the curb, shine flashlights in your face, ask you questions, 'What are you doing?' 'Why are you homeless?' 'Why are you out here?' Things like that. And then threaten you that if you came back to sleep at that same spot again, that they were going to lock you up. But a lot of people did anyway, because there are only a few spots that are so safe."

– Melissa, 22, San Diego

Foreword

Adding Insult to Injury: The Criminalization of Homelessness and Its Effects on Youth is an important work that shines much needed light on the challenges that homeless youth face. This piece highlights the plight of unaccompanied homeless youth and sounds the alarm that laws criminalizing their status are harmful, counterproductive and should not be tolerated.

The National Law Center on Homelessness & Poverty is proud to partner with the California

Homeless Youth Project to protect the human and civil rights of youth experiencing homelessness. In June 2015, the California Homeless Youth Project participated in our National Forum on the Human Right to Housing, bringing the voices of homeless youth to the national discussion about the growing trend of criminalizing the life-sustaining activities of homeless people when they are carried out in public places. As documented in our 2014 report *No Safe Place*, criminalization is not only inhumane, potentially unconstitutional and inconsistent with human rights norms, it is also wasteful: criminalizing homelessness costs more than solving it through housing and services.

Adding Insult to Injury makes a significant contribution to the growing

body of evidence documenting the harmful effects of criminalization. Hidden in plain sight, unaccompanied homeless youth too often cascade down a criminal justice system that is ill equipped to support and meet their needs.



More importantly, laws criminalizing homeless youth deprive them of the opportunity to succeed in life, creating additional barriers to housing, employment, and education, and only serve to punish them at a time when they are most vulnerable.

To begin to right these wrongs, our policy makers must turn away from using the criminal justice system to address the crisis of homelessness and focus instead on the desperate need for more safe, affordable housing, appropriate services, and access to education.

- Maria Foscarinis
Executive Director, National Law Center on Homelessness and Poverty

Overview

Each day, law enforcement agencies throughout California ticket and arrest homeless residents for carrying out life-sustaining activities in public spaces. The enforcement against behaviors linked with homelessness, often referred to as the “criminalization of homelessness,” results in a serious strain on the homeless community, an increased burden on police resources, and congestion in local jails and courts. California’s homeless youth are particularly vulnerable to the effects of this type of policing. Saddling a young person with a criminal history impedes their efforts to obtain a job, housing, safety net resources, and education, including both secondary and post-secondary education. In interviews with the California Homeless Youth Project, unaccompanied youth reported that most of their interactions with police result in them being forced to move from their relatively safe spaces at night and from public parks and sidewalks during the day – a move that may make them more vulnerable to sexual exploitation or physical assault.¹ They also

often face warrants for unpaid fines incurred after failing to pay the fare for public transportation, which creates further barriers to self-sufficiency.

A 2013 count of homeless persons by the United States Department of Housing and Urban Development found 15,469 unaccompanied youth living in California in one evening – almost one-third of the national count.² On that single night in January 2013, California counted 2,144 unaccompanied homeless children and youth under 18 and 13,605 young adults age 18 to 24. Though these numbers are widely considered an undercount, California has the largest number of homeless youth and young adults in the United States. California’s homeless youth are also more likely to be unsheltered than in almost any other state.

This issue brief explores how criminalization affects California’s homeless youth, considering the unintended consequences of the enforcement of “quality of life” ordinances. This brief also presents solutions for state and local policymakers, service providers, and law enforcement to alleviate this strain on California’s unaccompanied youth as they struggle to successfully enter adulthood and obtain stable housing.

What is the Criminalization of Homelessness?

The criminalization of homelessness is an increasing trend whereby municipalities all over the country penalize people experiencing homelessness for performing life-sustaining activities which, due to a person’s lack of housing, he or she is forced to perform in a public space.³ These so-called “quality of life” laws may include such infractions as standing, sitting, and resting in public places; sleeping, camping, and lodging in public places, including vehicles;

begging, panhandling; and restrictions on feeding homeless people in public places.⁴ Other criminalization issues commonly facing the homeless community include the enforcement against jaywalking, littering, use of public parks, selling goods on the street, and confiscation of personal property in homeless camps left unattended.

Repeated enforcement has a cumulative negative effect on homeless individuals. As they continue to incur fines, face warrants, and serve time in jail for committing acts of necessity, attempts to acquire housing become increasingly more difficult for members of this community. They have limited options for sleeping at night, and nowhere to store belongings or rest during the day.

Anti-homeless laws commonly enforced in California cities	
• Camping without a permit	• Sitting or lying in public places
• Sleeping in a vehicle	• Food sharing
• Sign waving/panhandling	• Loitering

Whose Quality of Life?

“Why can’t homeless people sleep? We’re just trying to exist.”

– **Guy, age 20, Sacramento**

Research on the criminalization of homelessness almost always includes reference to police enforcing so-called “quality of life” ordinances meant to keep public spaces safe and clean. The use of “quality of life” as a characterization of such policies fundamentally excludes the lives of people surviving on the streets. However there is an emerging trend in academic literature to refer to this category of laws as “anti-homeless,” thereby demonstrating the explicit link and disproportionate impact on this community.⁵ Over and over again, the California Homeless Youth Project heard from young people that law enforcement agencies practice selective enforcement of certain “quality of life” ordinances, and also make demands that exceed their authority. Selective enforcement includes law enforcement officers confiscating

property and urging people to move along without providing adequate justification for such requests.⁶ When youth see other presumably non-homeless individuals enjoying the same public spaces without intervention by police, this selective



enforcement signals harassment and further stigmatizes these young people. The unequal implementation of “quality of life” ordinances means that they are primarily used as devices to criminalize the homeless population, reinforcing a wider cultural norm that supports treating homeless Americans, who are doing nothing more than engaging in daily acts of living, as criminals.⁷

This law enforcement trend is strongly influenced by “Broken Windows” theory, a concept developed in the 1980s indicating that persistent enforcement against minor offenses elevates the level of public order



and reduces the occurrence of both petty and serious crimes.⁸ In practice, this has resulted in criminalizing poverty by pushing those already at the margins into a cycle of fines, debt, and jail. Despite recent national attention given to the “Broken Windows” theory, the history of criminalizing people in poverty dates back a century. Laws explicitly targeting people experiencing homelessness have primarily been enacted in the last 20 years and have accelerated pace in the last five years. Today, communities from New York City to Gainesville, FL to San Francisco enforce anti-homelessness ordinances,

but laws criminalizing homelessness are particularly prevalent in California.⁹

Unfortunately, such enforcement has also resulted in police practices that the federal government and civil and human rights groups consider discriminatory and abusive because enforcement is based on housing and socioeconomic status rather than criminal behavior. Further, it attacks the symptoms of homelessness without addressing the underlying social and economic roots.¹⁰ **For people experiencing homelessness that are ticketed for quality of life offenses, the recidivism rate is high because they still lack alternatives to performing daily acts of living in public.**

Criminalization Issues Facing California’s Homeless Youth

“I’ve gotten tons of tickets, mainly for sleeping in Golden Gate Park. ... They’ll give you a court date and if you don’t go, the next time they run your name [and] they’ll send you to jail.” – Philip, 21, San Francisco

A 2008 California Homeless Youth Project survey of more than 200 currently and formerly homeless youth throughout the state found that 72 percent of these youth reported interactions with law enforcement. Nineteen percent reported police interaction once or twice each month, 12 percent reported weekly interaction, and 5 percent reported daily interaction. Over 10 percent of youth who interacted with police said the interactions usually resulted in arrest. In contrast, **not one youth interviewed reported ever turning to police for help when they needed it.**¹¹

Youth experiencing homelessness are particularly vulnerable to criminalization

because they are subject to all the laws that penalize homeless adults but also face laws that affect only youth. In addition to being criminalized for their housing status, unemancipated minors (in California, persons under the age of 18), are subject to “status offenses,” a term that generally applies to behaviors and actions considered illegal when committed by minors.¹² The most common status offenses include running away from home, truancy from school, and curfew violations, with states and jurisdictions varying in how they define and punish so-called “status offenders.”¹³ In this context, status offenses were allegedly designed to keep young people safe by preventing “delinquent acts,” yet opponents argue that their enforcement restricts the rights of young people and unfairly relies on the criminal justice system to address social problems.¹⁴ According to a recent report released by the Attorney General’s office, 12.5 percent of minors arrested in California in 2014 were arrested for committing status offenses.¹⁵

Youth who run away do so for their own survival, often fleeing their homes due to abuse, extreme poverty, and/or rejection of their sexual orientation and/or gender identity and expression. Yet in many jurisdictions, runaway youth may be apprehended by law enforcement and returned to their home of origin, even if that home is dysfunctional and/or abusive. When the judiciary enforces status offenses against youth who are otherwise law-abiding citizens, they unnecessarily bring youth into the juvenile justice system, further perpetuating stereotypes about the “incurability” of homeless youth, when their only crime is homelessness itself.¹⁶

In California, law enforcement may take a runaway youth into temporary custody without a warrant if the youth repeatedly refuses to obey parents, school

authorities, and legal authorities.¹⁷ Youth who violate curfew laws may be detained by law enforcement and later fined for administrative and transportation costs, and/or ordered to complete community service in lieu of payment of such fees.¹⁸

Youth who are truant from school may be detained by law enforcement during school hours and returned to school or home. If a youth is found to be a “habitual truant,” the school may take administrative actions and the youth may be declared a ward of the court.¹⁹ These actions could negatively impact the educational career of homeless students that already face significant barriers to successful school completion.

Homeless youth are particularly vulnerable to being exploited, especially when unsheltered.²⁰ Homeless youth who are not able to meet their immediate basic needs of shelter, food, and safety are at an increased risk of being targeted by perpetrators.²¹ Attempts by homeless individuals to rest in safer spaces, such as well-lit populated areas, are increasingly being met with anti-homeless laws that ban camping and/or sleeping while living on the street.²² In California, dozens of cities ban nighttime activities that include sleeping, camping, or lodging in a vehicle.²³ In Colorado, an urban camping ban passed by the Denver City Council in 2012 has been criticized for failing to improve the living conditions of people experiencing homelessness. As a result of the ban, homeless people are being forced to move further away from well-lit downtown areas where services are located, and forcing them to stay in unsafe locations that put them at risk for sexual assault, exploitation, and forms of human trafficking.²⁴

In recent interviews with the California Homeless Youth Project, unaccompanied youth reported primarily engaging with police as a result of two quality of life offenses, in particular:

- ❖ **Camping or sitting:** Most interactions with law enforcement come as a result of homeless youth sleeping in public or private spaces at night, or sitting in public space during the day. One Sacramento youth reported continuously walking through town during the day in order to sleep in different undisclosed locations each night. He did this because he lived in fear of police stopping him, despite the fact that the city has no formal sit-lie laws like San Francisco's Civil Sidewalk Ordinance. This resulted in "trench foot," a medical condition caused by prolonged exposure of the feet to damp, unsanitary, and cold conditions.
- ❖ **Public transportation:** Without access to personal vehicles, homeless youth must use public transportation to reach services and appointments that might help them obtain stable housing or maintain a support network. Unable to pay bus and rail fares, however, they ride without passes – a gamble often resulting in citations. In interviews with homeless youth in Sacramento, Los Angeles and San Diego, the California Homeless Youth Project found that most respondents have incurred fare-dodging citations. Left unpaid, these citations result in warrants, which youth report lead to arrests or repeated threats of arrest by law enforcement.

"I have a warrant right now for not paying \$2.50 for a bus ticket." "I have three. ... We can't [pay our fines]. We can't afford to."

– Jasmine, 18, and Justin, 19, Los Angeles



Many advocates believe this enforcement is harmful to the state's unaccompanied youth. "If the police are part of the reason they're moving place to place to avoid getting a ticket and going to jail, it just creates more trust barriers," said a youth outreach worker.

Recent California Legislation

Despite the Department of Justice's recent statement that it is cruel and unusual to punish a person for sleeping outside when

September 2013, the League of California Cities released a report discussing practices for and encouraging the implementation of anti-camping, anti-panhandling, and anti-sleeping ordinances.²⁷

Municipalities across the state have mirrored national trends²⁸ of increased legislation against the homeless, passing anti-camping laws and denying existing camp permit extensions.²⁹ Tactics taken by the City of Sacramento, such as shutting off water



they have no other options, the American Bar Association vowing to stand against the criminalization of homelessness,²⁵ and cities across the country opening "homeless courts" to help people on the streets deal with citations and warrants,²⁶ California's local governments continue to pass laws penalizing the homeless. As recently as

supplies near the American River Parkway to make the area less livable for homeless campers, received a reprimand from the United Nations.³⁰ Los Angeles' Skid Row was also admonished for the disparate racial impact of the criminalization of homelessness in the Special Rapporteur on

Racism report in 2008.³¹ Cities along the coast such as Santa Cruz³² and Carmel³³ have ordinances against sleeping in vehicles, and homeless residents in Laguna Beach have begun to battle such laws in court.³⁴ San Francisco's homeless residents can neither sleep in parks at night³⁵ nor sit on sidewalks during the day,³⁶ while Los Angeles is currently looking to join Santa Monica and San Francisco³⁷ with restrictions on sharing food in public.³⁸

In 2013, State legislators introduced The Homeless Bill of Rights (AB 5, Ammiano), which aimed to provide California's homeless community the ability to perform life-sustaining activities without intervention from police tasked to carry out enforcement of anti-homeless ordinances.³⁹ The bill failed to pass out of the Appropriations Committee after opponents argued that it afforded homeless residents special privileges and the California Chamber of Commerce called the legislation a "job-killer."⁴⁰

Despite that setback, California's homeless youth have gained some legal wins in recent years. In *Jones v. City of Los Angeles*,⁴¹ a Ninth Circuit federal judge struck down an ordinance that criminalized conduct that, due to the city's lack of affordable housing, amounted to punishment for what was an unavoidable outgrowth of the status of homelessness as unconstitutional. With the passing of AB 1111 (Fletcher) in 2011, advocates succeeded in making it illegal to garnish wages from paychecks of homeless youth up to age 25 as a form of debt collection, removing one of the many obstacles they face while striving to obtain housing.⁴² Most recently, Governor Edmund G. Brown Jr. signed SB 1038 (Leno, 2014) into law, creating a pathway for automatically sealing a juvenile's record if they have complied with all probationary requirements.⁴³ While the law does not

specifically mention homeless youth, it has the capacity to ensure that minors ticketed for quality of life offenses are not burdened with an adult criminal record that impedes their ability to access education, employment, or housing.

California also recently closed a loophole that allowed certain jurisdictions to incarcerate youth for truancy (SB 1296, Leno, 2014). Due to the chaotic circumstances surrounding homelessness, homeless students may be less likely to attend school regularly and before SB 1296 they were subject to incarceration for low attendance. Incarcerating homeless students for missing school only further exacerbates educational barriers and disconnection with community and social support systems. In this case, homeless students are much better served by community-based organizations, which have been shown to be more developmentally appropriate, cost effective, and humane than the juvenile justice system.⁴⁴ At the federal level, a new initiative of the Office of Juvenile Justice and Delinquency Prevention states that contact with the juvenile justice system should be "rare, fair, and beneficial."⁴⁵

How Does California Rank?

California accounts for more than one-fifth (22 percent) of the nation's homeless population in spite of representing only 12 percent of the nation's population.⁴⁶ In fact, 15,469 youth were counted on a single night in 2013, **the largest number of homeless youth and young adults in any state in the country.** In its 2014 report card on homelessness, the National Center on Family Homelessness ranked California as the third-worst state for children without homes based on the size of the population, poor scores for child well-being, a high risk of child homelessness, and poor state policy and planning efforts.⁴⁷ A 2009 study

ranked three urban centers in California (San Francisco, Los Angeles, and Berkeley) in the United States' top 10 "meanest cities" in terms of the criminalization of homelessness.⁴⁸

Furthermore, California cities have enacted more anti-homeless laws than other U.S. cities.⁴⁹ The 58 California cities in U.C. Berkeley's recent study have enacted at least 500 anti-homeless laws restricting sitting, standing, and resting in public places; sleeping, camping, and lodging in public places; begging, panhandling; and food sharing – nearly nine laws per city on average.⁵⁰ Compared with other cities, California cities are more than twice as likely to ban sleeping or lodging in vehicles.⁵¹ California cities are also more likely than other U.S. cities to impose city-wide bans on loitering and panhandling, a critical survival strategy for many of our most destitute neighbors.⁵² Since 2000, statewide arrests for drunkenness and disorderly conduct have decreased by 16 and 48 percent, while arrests for vagrancy have increased by 77 percent.⁵³

Factors Contributing to Homelessness in California

State and federal disinvestment in affordable housing, municipal codes criminalizing homelessness, and lack of state coordination all contribute to homelessness.⁵⁴ Homelessness in California is particularly acute because of the state's lack of affordable housing - in fact California has some of the most expensive real estate in the U.S.⁵⁵ A 2011 report from the California Homeless Youth Project found that two thirds of California's 58 counties have no programs specifically designed

to meet the needs of homeless youth.⁵⁶ California's high housing costs and shortage of shelters leave many homeless youth with no choice but to rest and sleep in public. State and federal policy choices have fueled homelessness during the last few decades, municipal governments have struggled to address the problem, and despite the central role housing played during the Great Recession, issues around housing affordability and homelessness have not been adequately addressed since. **In lieu of making investments in the state's safety net programs, many communities have instead tried to remove homeless people from public view.**⁵⁷



Policy Recommendations

“We know that homeless youth are more often the ‘victims’ rather than the ‘perpetrators’ of crime and should be treated as such.”

– **Sergeant Ric Declan, Multnomah County, OR Police Department**

Homelessness takes a serious toll on the lives of youth. Criminalizing behaviors inherently linked with one’s housing status only exacerbates the hardships these young people face while living outdoors or in other precarious housing situations. Preventing and ending youth homelessness today is far more humane and less costly than paying for the consequences of chronic homelessness tomorrow. For these reasons, **it is crucial that the State of California pursue strategies to end youth homelessness through prevention, supportive services, housing, and improved data collection, rather than penalize young people who have no other options.** These recommendations are a synthesis of perspectives shared by researchers, service providers working with young people experiencing homelessness, law enforcement agencies making strides toward successfully employing alternatives to criminalization, and the community most impacted by these laws: homeless youth.

- ✓ **Decriminalize necessary human behavior that occurs in the absence of alternatives at the state and local level:** While California’s unaccompanied youth seek housing, acknowledge their rights to a safe space, to move freely, to sleep, to own belongings, and to accept the food offered to them. Focus on serving young people through community-based programs rather than imposing criminal sanctions and incarceration. Young people should be diverted away from the justice system and toward more appropriate interventions such as those employed in runaway and homeless youth programs. The Department of Justice should facilitate connection with runaway and homeless youth programs for prevention and diversion.

- ✓ **Create a continuum of housing options:** Youth with housing are markedly less likely to be arrested for quality of life violations. Develop low-barrier housing models for homeless youth, including those with mental health and substance use disorders, allowing them to remain in developmentally appropriate youth housing.

Policy Recommendations *(continued)*

- ✓ **Convene community forums to facilitate dialogue among service providers, law enforcement, business owners and associations, and homeless youth:** Discourse between service providers and law enforcement in places like San Diego and Hollywood show that an increased understanding of one another's roles can go a long way toward creating solutions fitting to all.
- ✓ **Increase resources for homeless youth:** A 2011 survey by the California Homeless Youth Project found just 53 programs in the state servicing homeless youth, with **only 1,000 beds for them in the entire state**. Two-thirds of all California counties in California had no programs aimed at serving unaccompanied youth (beyond educational support for homeless students enrolled in public schools).⁵⁸ An increase in drop-in shelters, emergency beds, and transitional programs geared toward long-term housing will allow homeless youth to carry out daily acts of living in their own space.
- ✓ **Create Homeless Outreach Teams that are trained to respond to the unique circumstances of homeless residents:** California's law enforcement responds to many calls regarding the homeless community. Often, they lack the training required to help homeless individuals find the housing or mental health services they may need. Law enforcement agencies should seek and share best practices with communities that are successfully employing alternatives to criminalization.
- ✓ **Address need for affordable transportation:** Public transit citations make it difficult for homeless youth to pursue housing, work, and available services. Californians must find ways for these youth to access transportation in an affordable, legal manner. For example, ensure that homeless students enrolled in kindergarten through 12th grade obtain support for transportation as guaranteed in the education subtitle of the federal McKinney-Vento Act.⁵⁹ Another solution is for the state to subsidize the cost of public transportation for individuals experiencing homelessness, similar to a recently passed California law that waives fees for public records such as birth certificates and identification cards if a person is homeless (AB 1733, Quirk-Silva, 2014).

Youth Recommendations

"Are you a human being that needs help? Should be the barometer for help."

"Make transportation more affordable!"

"Reclaim public space."

"We need places to get our hygiene needs met so we don't get discriminated against."

"We need to come together to build community that includes all marginalized people so we can share an inclusive message about who this type of policing effects."

"Assert squatters rights."

"Police use their bodies instead of asking for what they want. You should communicate with your words, not with your body."

"Create spaces where everyone feels safe."

"Police need sensitivity training specifically around lesbian, gay, bisexual, and transgender tolerance. Law enforcement should be gender affirming."

To hear directly from the young people themselves, [check out this series of short videos](#) of youth talking about the criminalization of homelessness, how it impacts them, and their ideas for change.

Appendix:

A Different Approach: San Diego Police Department's Homeless Outreach Efforts

Despite the League of California Cities' push to enforce quality of life offenses, some California police forces are taking innovative approaches to homelessness. San Diego's Homeless Outreach Team (HOT Team), for example, provides outreach to its local homeless community. Comprised of five police officers, two county psychiatric clinicians, and two county mental health eligibility technicians, the city of San Diego estimates that this team of law enforcement and service providers helps some 700 homeless people each year.

California advocates and law enforcement officials are increasingly finding that strengthened discourse with each other and with people experiencing homelessness can greatly reduce the number of incidents resulting in citations and arrests. Sgt. Richard Schnell, who leads the HOT Team, says that his department's efforts focus on communicating with and assisting San Diego's homeless residents. "We're not an enforcement team. Rarely do we arrest anybody," said Sgt. Schnell. "We connect people to services."

According to Sgt. Schnell, some 80 percent of San Diego Police Department (SDPD) calls in downtown San Diego are directly related to homelessness, underscoring the need for first responders who understand the value of partnering with and engaging the broader homeless community. And while the HOT Team's first task is to link San Diego's homeless community with services they need, Sgt. Schnell also consults with officers across the police force on how to approach complaints involving homeless individuals.

"You shouldn't be thinking of being in arrest mode with anybody you talk to if you don't know that person," said Sgt. Schnell. "You should be thinking of advising them on the law."

Sgt. Schnell said the number of calls that SDPD receives from residents or business owners regarding homeless individuals is "a huge stressor" on department resources. However, with the lack of services across the board for impoverished Californians, the state's police forces will continue to field high volumes of calls regarding the homeless community.

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